

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Bruce Snyder,)	
)	
Complainant,)	
)	
v.)	Case No. 13-2031-EL-CSS
)	
FirstEnergy Solutions Corp.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On March 4, 2014, Bruce Snyder (Complainant) filed a motion to compel the Commission to enforce Ohio Adm.Code 4901:1-21-04(C) and 4901:1-21-06(D)(2)(b)(iii). Complainant contends that the Commission should impose a fine on FirstEnergy Solutions Corp. (FES), pursuant to Ohio Adm.Code 4901:1-21-15, for not providing Staff with Complainant's records within five days of Staff's request for the records, pursuant to Ohio Adm. Code 4901:1-21-04(C) and 4901:1-21-06(D)(2)(b)(iii). Complainant adds that a delay in enforcing Commission rules is indicative of favoritism to FES.
- (2) On March 17, 2014 FES filed its memorandum contra Complainant's March 4, 2014, motion. FES contends that Complainant lacks standing to seek enforcement of Ohio Adm.Code 4901:1-21-04(C) and 4901:1-21-06(D)(2)(b)(iii). Second, FES asserts, Complainant has brought a claim against FES at the Commission, proceeded through discovery, and the matter is proceeding to a hearing. FES contends that there has been no resolution of Complainant's claim and no opportunity for favoritism to FES by the Commission.
- (3) Complainant replied to FES's memorandum contra on March 23, 2014. Complainant asserts that the memorandum

contra was not properly served upon him, as service was made to an incorrect address, not his address as indicated in his pleadings. Complainant adds that he only became aware of the memorandum contra by checking the Commission website on March 21, 2014, and he urges the Commission to disallow the memorandum contra.

- (4) On March 24, 2014, FES filed a response to Complainant's reply. FES states that through an inadvertent error, the memorandum contra was mailed to 4471 Powder Horn Drive, rather than Complainant's correct address at 4461 Powder Horn Drive. FES adds that the memorandum contra was timely filed with the Commission and that FES did attempt to serve Complainant with the memorandum contra. FES adds that, to the extent Complainant seeks additional time to reply to the memorandum contra, FES does not object to the attorney examiner granting a seven-day extension of time for Complainant to file an additional reply.
- (5) The attorney examiner recognizes that the typing error made by FES in serving Complainant by ordinary mail was inadvertent and delayed Complainant's opportunity to examine the contents of the memorandum contra. In addition, the attorney examiner notes that Complainant's reply memorandum focuses only on FES's error in serving Complainant, and does not address any arguments made in the memorandum contra.

In light of such circumstances, the attorney examiner observes that, pursuant to Ohio Adm.Code 4901-1-38(B), "the Commission may, upon its own motion or for good cause shown, waive any requirement, standard, or rule set forth in this chapter or prescribe different practices or procedures to be followed in a case." Accordingly, the attorney examiner will not grant Complainant's request to disallow the memorandum contra, but finds reasonable granting more time for Complainant to file an additional reply memorandum to the memorandum contra. Therefore, Complainant shall have until the close of business on April 8, 2014, to file an additional reply memorandum.

It is, therefore,

ORDERED, That Complainant file any additional reply to FES's memorandum contra no later than April 8, 2014. It is, further,

ORDERED, That a copy of this entry be served upon interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/James Lynn

By: James M. Lynn
Attorney Examiner

JRJ/sc

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/28/2014 11:30:33 AM

in

Case No(s). 13-2031-EL-CSS

Summary: Attorney Examiner Entry orders Complainant to file any additional reply to FES's memorandum contra no later than 04/08/2014. - electronically filed by Sandra Coffey on behalf of James Lynn, Attorney Examiner, Public Utilities Commission of Ohio